



CORONER'S COURT

Name of Deceased: Rose Rain HOWELL

File Number: 2011/386556

Hearing Dates: 10 – 11 December 2012 and
27 June 2013

Location of Inquest: Court House Bellingen, and
Coroner's Court Glebe NSW

Date of Finding: 27 June 2013

Coroner: Magistrate P. A. MacMahon
Deputy State Coroner

Representations: Ms D Williamson - Advocate Assisting.

Non-publication order made pursuant to Section 74(1)(b) Coroners Act 2009:

That the name of, and any evidence identifying, not be published and that he be referred to in the proceedings by the pseudonym 'Prisoner A'.

Findings made in accordance with Section 81(1) Coroners Act 2009:

Rose Rain Howell (born 20 April 1984) died on or about 11 April 2003 in the Bellingen / Coffs Harbour area of the State of New South Wales. As to the cause and manner of her death the evidence available does not enable me to make a finding.

Recommendations made in accordance with Section 82 (1) Coroners Act 2009:

To: The Commissioner of Police:

That the investigation of the death of Rose Rain Howell be referred to the Unsolved Homicide Unit of the NSW Force for further investigation in accordance with the protocols and procedures of that unit.

Magistrate P A MacMahon

Deputy State Coroner

27 June 2013

Reasons for Findings:

Rose Rain Howell (who I will refer to as 'Rose') was born on 20 April 1984 at Bundagen a small community village about 20 kilometres south of Coffs Harbour. She was the daughter of Malila Howell and Clifford Lambert. In 2003 her parents were separated.

Rose was a young woman with a strong and independent personality. She was said to have a great sense of humour. She had a keen interest in drama, played the bass guitar and wrote songs. She suffered from autism however she did not let that interfere in her life. She was not known to use illicit drugs and only rarely drank alcohol. Rose liked to dress in distinctive attire and had a Mohawk style haircut. This made her fairly recognisable.

In April 2003 Rose was planning her nineteenth birthday party. She was very excited at the prospect. On 11 April 2003 she went into the Bellingen shopping area in order to make her birthday invitations on the Bellingen Library computers. During the day she was seen by a number of persons. She eventually left Bellingen and travelled in the direction of her home at Bundagen. She did not arrive at Bundagen that evening and has not been seen by any members of her family since.

Jurisdiction of the Coroner:

It is important to understand the role and function of the coroner that arises when a person is reported missing and is suspected to be deceased. The legislation governing the functions of a coroner is the Coroners Act 2009 (the Act). That legislation replaced the Coroners Act 1980 (the Old Act). Although Rose went missing in 2003 the Act governs the conduct of this inquest.

Sections 18 and 21 of the Act gives a coroner jurisdiction to hold an inquest where the reportable death, or suspected reportable death, of an individual occurred within New South Wales or the person who has died, or is suspected to have died, was ordinarily a resident of New South Wales.

Section 6 of the Act defines a 'reportable death' as including one that occurred 'under suspicious or unusual circumstances.' Section 35 of the Act requires that all reportable deaths and suspected deaths be reported to a coroner.

Some inquests are mandatory. Section 27 of the Act sets out the circumstances where an inquest is mandatory. Those circumstances include circumstances where the date or place of death or the cause or manner of death has not been sufficiently disclosed.

Where a person has been reported missing, and where it is reasonably suspected that the person is deceased and no body has been discovered it would be unlikely that the cause and manner of death would be sufficiently disclosed as a result in such situations an inquest is mandatory.

Section 80 of the Act provides that where an inquest is conducted and where, on the evidence available, a coroner is not satisfied that a person suspected to be deceased is in fact dead he or she is required to make a finding that the person is not dead and terminate the inquest.

Section 81(1) of the Act sets out the primary function of the coroner when an inquest is held. That section requires, in summary, that at the conclusion of the inquest the coroner is to establish, should sufficient evidence be available, the fact that a person has died, the identity of that person, the date and place of their death and the cause and manner thereof.

Section 78(3) gives a coroner the discretion, where the requirements of Section 78(1)(b) have been met during the course of an inquest to either,

continue the inquest and make findings in accordance with Section 81(1), or to suspend the inquest

Section 78 (1)(b) deals with the situation where a coroner, having regard to the evidence available, forms the opinion that:

- (i) The evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence, and
- (ii) There is a reasonable prospect that a jury would convict the known person of the indictable offence, and
- (iii) The indictable offence would raise the issue of whether the known person caused the death with which the inquest is concerned.

Section 78(4) provides that where a coroner exercises the discretion to suspend an inquest in accordance with Section 78(3) he or she is required to refer the evidence available to the Director of Public Prosecutions.

Section 82(1) of the Act provides that a coroner conducting an inquest may also make such recommendations, as he or she considers necessary or desirable, in relation to any matter connected with the death with which the inquest is concerned. The making of recommendations are discretionary and relate usually, but not necessarily only, to matters of public health, public safety or the conduct of services provided by public instrumentalities. In this way coronial proceedings can be forward looking, aiming to prevent future deaths.

Section 82(2) of the Act provides that a recommendation made in accordance with Section 82(1) includes a recommendation that the matter be investigated or reviewed by a specified person or body.

Section 74(1)(b) of the Act provides a coroner with the discretion to prohibit the publication of any evidence given during the course of an inquest where he or she is of the opinion that it is in the public interest to do so.

History of the Investigation:

Rose's disappearance was reported to police at the Bellingen Police Station on 15 April 2003. NSW Police, under the direction of Detective Senior Constable Anthony Murphy subsequently undertook an investigation into Rose's disappearance however that investigation failed to locate Rose or to establish the circumstances of her disappearance.

Responsibility for the investigation of Rose's disappearance was subsequently allocated to Detective Senior Constable Peter Watt. DSC Watt reported Rose's suspected death in accordance with the Act on 14 December 2011.

The inquest was listed for hearing at Bellingen and commenced on 10 December 2012 before me. On 10 and 11 December 2012 evidence was taken from DSC Peter Watt, nine persons who had reportedly seen Rose on or after 11 April 2003, together with evidence from Rose's mother Malila Howell.

In addition to witness evidence relevant documentary evidence was tendered and a view undertaken that sought to retrace, in part, Rose's last known movements.

The inquest was adjourned on 11 December 2012 to enable further investigations to be undertaken by DSC Watt following the receipt of additional information.

On 27 June 2013 the inquest was resumed at the Coroner's Court Glebe. DSC Watt was recalled and gave evidence as to the results of his further investigations. The inquest was then concluded.

The Evidence:

Malila Howell gave evidence as to Rose's personality, circumstances and background. She confirmed that Rose did not, to her knowledge, use illicit

substances nor did she consume alcohol often. She said that she last saw Rose on 11 April 2003 before she left to go to Bellingen. At that time Rose was very excited as to her upcoming 19th birthday and the party that was to occur at Bundagen on Monday 21 April 2003 at 6.30pm.

Ms Howell in evidence and in the statements she had previously given said that she had a good relationship with Rose and that it was unusual for her to not maintain contact with her. She said that whilst Rose had at times in the past engaged in attention seeking and risk taking behaviour she had not shown any signs of being suicidal or engaging in intentional self harm. Ms Howell would love to think that Rose was alive and well, living under a new identity, but did not think that that was likely. She was ultimately of the opinion that Rose was deceased and that it was likely she had been the subject of foul play.

The investigation established that Rose was able to get a lift from Bundagen to the Bellingen turn off with another Bundagen resident Malcolm Wood. In his statement Mr Wood said that he picked her up at about 10.50am and subsequently dropped her off at the Waterfall Way roundabout on the Old Pacific Highway at Raleigh. He said that she was in good spirits and spoke enthusiastically about her upcoming birthday party. Mr Wood also remembered seeing Rose in Bellingen about 4.00pm that afternoon. The investigation identified a number of other people who saw Rose in Bellingen throughout the day on 11 April 2003.

Maureen McCarthy made a statement on 28 May 2003 and gave evidence at the inquest. She was a teacher. She had first seen Rose in Bellingen early in 2003 and had noticed her on 7 or 8 occasions around town prior to 11 April 2003. She observed that Rose wore distinctive clothing, had a Mohawk style hairstyle and walked with a distinctive manner. On 11 April 2003 Ms McCarthy was returning to Bellingen from Bowraville. She estimated that she arrived between 5.00pm and 5.30pm. As she did she saw Rose standing on Waterfall Way near the intersection of Prince Street. She knew the location to be a popular place for people who wanted to hitch a lift to wait. Ms McCarthy had

picked up hitchhikers from the location previously. Ms McCarthy thought that Rose was trying to hitch a ride.

Stuart McDade gave evidence at the inquest. He stated that he, and his partner Amanda Wood, moved to Bellingen in February 2003. He did not know Rose but had seen her around town and knew that she was a local girl. He stated that about 5.00pm he was driving past the Bellingen Golf Club on Waterfall Way and saw a girl hitching a ride. He stopped and gave the girl a lift. When he reached his destination at 838 Waterfall Way she got out and continued walking in the direction of the Pacific Highway. When he subsequently saw posters seeking information as to her whereabouts he realised the girl he had given a lift to was Rose.

Stephen Hull gave evidence at the inquest. In 2003 he had lived in the Bellingen area for about 8 years. In 2003 he played soccer in an over 35's competition for the Bellingen Soccer Club that was conducted in Coffs Harbour. On days that there was a game he would car pool to Coffs Harbour with other team members. They would meet at Connell Park off Waterfall Way about 5.00pm prior to travelling to Coffs Harbour.

Mr Hull gave evidence that about 5.00pm on 11 April 2003 as he pulled into Connell Park he observed a girl who appeared to be hitching going in an easterly direction.

Mr Hull and his teammates subsequently left for Coffs Harbour about 5.15pm. As they were travelling along the Pacific Highway approaching the Pine Creek State Forest he again saw the girl walking northwards on the western side of the highway. Mr Hull did not know Rose however he subsequently identified the girl he had seen at Connell Park and walking along the highway to be Rose.

In 2003 a statement was taken from Lawrence Fowler. Mr Fowler stated that in early 2003 he was in a café in Bellingen and had a conversation with a young woman about music. He was a retired musician. He found out that her

name was Rosie. On 11 April 2003, just as it was getting dark, he and his friend Leah Munro were travelling from Coffs Harbour towards Bellingen. As he approached the Repton turnoff he moved to the turning lane in order to turn off onto the Old Pacific Highway prior to entering Waterfall Way. As he did so he saw the girl he knew as Rosie standing in the rain. Mr Fowler turned into the Repton Road and stopped. Because of the direction the girl was walking Mr Fowler thought she was going to Bellingen. He offered her a lift. The girl accepted and got into the car. She then changed her mind and told Mr Fowler and Ms Munro that she had to go to Bundagen. She then got out of the car and Mr Fowler and Ms Munro proceeded on their way. The evidence was that sunset in Bellingen on 11 April 2003 was at 5.17pm.

William John Robb made a statement on 3 July 2003 and also gave evidence at the inquest. On 11 April 2003 at about 5.00pm he was driving travelling to pick up his daughter from his sisters home at Raleigh. As he came to the intersection of Perrys Road and the Old Pacific Highway he saw a girl with a Mohawk haircut sitting on a wooden bench at the Perrys Hill lookout. As far as he could see the girl was alone.

Mr Robb stated that after he had collected his daughter he was returning home about 6.15pm. When he turned into Perrys Road he noticed a car parked at the lookout. He thought it was either white or yellow but did not take much notice of it. He continued along Perrys Road for about a 100 metres and then he noticed a girl with a Mohawk style haircut walking in an easterly direction. He believed it was the same girl he had previously noticed at the lookout. Mr Robb did not believe that at the time she was seeking a lift. Mr Robb travelled around her and then proceeded home.

Mr Robb was confident about the date and times he observed the girl because it was his wedding anniversary and his daughter was performing in a dance demonstration that evening and had to be at the performance by 7.00pm. Mr Robb did not know Rose however he had seen her in Bellingen earlier in the year. He was able to recognise her as the same girl as he had

seen on 11 April 2003 because she was wearing the same clothes and hairstyle.

The investigation into Rose's disappearance also identified a number of people who believed that they had seen Rose after 11 April 2003.

Mr Alan Amos Scott came forward during the course of the inquest. He was a Bellinghen resident and operated tow trucks. He knew Rose because she had regularly walked past his workshop. He remembered that the last time he had seen her she was standing on the bank of the Old Pacific Highway at Pine Creek about 100-120 metres south of the turnoff to Bundagen. He said it was early nighttime. He said that he saw her standing on the steep slope and he wondered if she was going to jump. She did not do so. He was unsure of the date but having looked at his records he initially thought it was either 3 or 13 April 2003 however later he thought it could have been on 11 April 2003. He had not seen Rose since that time.

David Leonard Fergusson was a resident of Bellinghen. He gave evidence at the inquest. On 11 April 2003 he was required to attend the Bellinghen District Hospital for day surgery. Evidence tendered to the inquest confirmed the date of his surgery. His evidence was that he had seen Rose around town on numerous occasions. On the day of his surgery he remembered speaking to her. Their conversation was mainly about music but she mentioned that she was having a birthday party and was really excited about it.

Mr Fergusson stated that the next morning he came into Bellinghen and whilst there saw Rose walking past the courthouse. He did not speak to her on that occasion. He said that the clothing she was wearing was similar to the clothing that she had been wearing on the day previously. He thought that he saw her between 11.00am and 1.00pm.

Leanne Gai Walmsley made a statement to police on 27 May 2003 and gave evidence at the inquest. She did not know Rose. She saw her photograph in the local newspaper after she went missing and contacted the police. She

said that she had seen Rose on 3 or 4 occasions in Coffs Harbour but had never spoken to her. She said that on 16 April 2003 whilst travelling to the Bunnings store at Coffs Harbour as part of her employment she was stopped in her car in the southbound lane on the Pacific Highway back from the lights at Combine Street waiting for them to change. As she waited a girl, who she believed to be Rose, walked past her. The girl was wearing a black tee shirt and black denim jeans. She was carrying a guitar over her back and had black closely shaven hair. The girl passed Albany Street and then continued in a southerly direction on the Pacific Highway. Ms Walmsley did not think she was hitchhiking. When the lights changed Ms Walmsley continued on her way.

Shaylee Anne Smith made a statement on 30 May 2003 and gave evidence at the inquest. She said that she had met Rose at Tormina High School when they commenced in year seven. She said that she knew Rose well but was not close to her.

She said that about two weeks before 5 May 2003 she, and her boyfriend Peter Hopwood were travelling in a car along the Pacific Highway Coffs Harbour when she saw Rose walking along the footpath on the eastern side of the highway. She recognised Rose, in part, because of her distinctive walk. She observed that she had her head shaven except for a Mohawk bit along the top of her head. She said that she was wearing the same type of clothing as she usually did.

Ms Smith also said that on Monday 5 May 2003 she and Mr Hopwood were again in Coffs Harbour as she had a doctor's appointment. About 4.00pm she and Mr Hopwood were walking along Grafton Street Coffs Harbour. When they passed the Pizza Haven she thought she saw Rose sitting on the plastic chairs in front of the kebab shop. She said that she was wearing the same clothes but did not have the Mohawk haircut. Ms Smith said hello to the girl she thought was Rose however the girl did not respond. Ms Smith thought this was unusual because previously when they had met Rose would 'speak for

ages.’ As they passed the location later that day the girl was still there but had her back to them. They did not make further contact.

Ms Smith also gave evidence that two or three days later she once again saw a person she believed to be Rose as she was travelling in a car in Grafton Street Coffs Harbour. She said that she recognised her because of the same distinctive walk, the way she looked and the clothing that she wore. At that time she said Rose was walking north along the eastern footpath of Grafton Street in the company of a blond haired woman. She thought that the woman looked like a ‘feral or a hippy.’ Rose appeared to be happy and as far as she could tell the two women seemed to be mucking around.

When she gave evidence Ms Smith also remembered that she had seen Rose giving out birthday invitations outside Tormina High School. She said that at the time Rose was out the front near the bus stop. She was unable to give a date or time.

Peter Hopwood also gave evidence. He had not made a statement at the time of Rose’s disappearance. He did not know Rose but knew of her. His recollection was vague but he gave evidence of seeing her in the Mall at Coffs Harbour but did not remember what she was wearing at the time. He remembered that it was on a day when he and his partner were attending a doctor’s appointment. He said that his partner was about six weeks pregnant at the time. The child was born on 23 December 2003.

Sarina Baker made a statement to police on 29 May 2003 but did not give evidence at the inquest. In 2003 she was a nineteen year old. She had attended Tormina High School and had known Rose at school. She did not know if Rose had been in her year. She did not know Rose very well. She said that on 2 May 2003 she was in a bus that was travelling north on the Pacific Highway. At a point near an antique shop south of Bray Street the bus passed Rose who was walking south on the footpath. Ms Baker said that she was able to get a good look at Rose as she was walking towards the bus and

the bus was not travelling very fast. Whilst she was '100% sure' that the girl she saw was Rose she was only 'pretty sure' that the date was 2 May 2003.

A statement prepared by Constable Troy Briggs was also tendered to the inquest. Constable Briggs is currently part of the Missing Persons Unit of the NSW Police. As part of his duties he undertook a number of searches with various governmental and other institutions to determine whether or not Rose had had contact with them. The result of those searches was that since 11 April 2003 Rose had not left Australia under her name, had not come to the attention of any State or Territory Police Force, did not conduct an account with any financial institution, was not on the electoral roll and had not sought to receive benefits from Centrelink or the Health Insurance Commission.

Shortly before the inquest began in Bellingen on 10 December 2012 a person contacted Crime Stoppers and provided information concerning the death of Rose. The caller did not identify himself but identified a person alleged to have been involved in her death. The person identified was a person then serving a sentence of imprisonment and was also a mental health patient at the Long Bay Correctional Centre Hospital. Further investigation was able to confirm that the source of the information was, in fact, the prisoner himself.

Having been informed of the health and circumstances of the informant I formed the view that it would not be in the public interest for the evidence of his name to be published. I came to this conclusion for several reasons firstly because if the information was credible it would likely lead to the commencement of criminal proceedings and I did not want any evidence given in this inquest to interfere with such proceedings in any way. Secondly I was informed that there was some concern expressed by corrective service officers that the informant, who had been associating with another prisoner who had been receiving considerable media attention, may be using his disclosure to obtain some sort of attention for himself. If this was the case I did not want the inquest to provide him with such attention. I therefore ordered, in accordance with section 74(1)(b) of the Act, that evidence of the name of the informant not be published and that in the proceedings he be

referred to by the pseudonym 'prisoner A'. I propose to continue that prohibition following the delivery of these findings.

Following 'Prisoner A' being identified he was spoken to by detectives stationed at Maroubra. He provided certain information that related to his involvement in Rose's death. He said that Rose had been abducted and subsequently killed and then buried and that he and another person who he refused to identify had been involved. This information was provided to me and I considered it appropriate for the details, to the extent that was known at the time, to be communicated to Malila Howell.

The information provided was such that it needed to be investigated prior to the inquest being concluded. I therefore decided to commence the inquest, receive all the evidence then available and then adjourn the inquest to allow that investigation to occur. I asked that the police undertake the further investigation necessary as soon as possible.

On 19 December 2012 Detectives Watt and Wallington interviewed 'Prisoner A'. During the interview he made certain claims as to his involvement in Rose's death and gave information as to the location of her body. 'Prisoner A' was interviewed again on 6 March 2013. On 7 May 2013 a search was conducted at the location that 'Prisoner A' had nominated as the site of Rose's burial. On 13 May 2013 a further search was undertaken this time involving the use of a Police Cadaver dog. The searches undertaken were extensive and did not locate Rose's body or any other relevant evidence.

DSC Watt was cautious in attributing credibility to the information given by 'Prisoner A'. He accepted that 'Prisoner A' appeared to believe that the information he gave was true. That information however contained a number of significant inconsistencies between his first and second interviews. It did appear to be the case that he had some personal knowledge of Rose and a sound knowledge of the geographical area in which the killing of Rose and disposed of her body was said to have occurred. That knowledge would not, however, be exclusive to 'Prisoner A'.

'Prisoner A' also suffered from significant mental health issues. His medical condition was such that his treating doctors would not approve his leaving the Long Bay Hospital and travelling to Coffs Harbour to assist the police search for Rose's burial site. DSC Watt concluded that whilst the information supplied by 'Prisoner A' could not be completely dismissed there were serious credibility issues associated with it.

Consideration and Conclusions.

As I outlined above the first matter I have to deal with is the question of whether or not I can be satisfied, to requisite standard of proof, that Rose is deceased. If I am so satisfied then I am to proceed to make findings in accordance with Section 81(1) of the Act as the evidence allows. If I am not so satisfied then Section 80 of the Act requires me to find as such and terminate the inquest.

That Rose travelled from her home to Bellingen on 11 April 2003 is without doubt. It would seem that late in the afternoon she began the journey towards her home. She was hitchhiking. McCarthy saw her waiting for a lift and McDade and Wood picked her up. They dropped her outside 838 Waterfall Way. She appears to have obtained another lift from an unknown person and is subsequently seen around 5.00pm on or near the Old Pacific Highway by Hull, Fowler, Munro and Robb. I am satisfied that the last time she was seen alive on 11 April 2003 was by Mr Robb when he drove passed her on Perrys Road at about 6.45pm. At the time she was travelling in the direction of her home at Bundagen.

After 11 April 2011 there have been a number of reported sightings of Rose. Mr Ferguson in Bellingen on 12 April 2003, Ms Walmsley in Coffs Harbour on 16 April 2003, Ms Smith in Coffs Harbour on three occasions, two weeks before 5 May 2003, on 5 May 2003 and 2 or 3 days after 5 May 2003 and finally Ms Baker once again in Coffs Harbour on 2 May 2003. Leaving aside

for the moment the question of whether or not these sightings occurred there has been no evidence of Rose being alive since the early part of May 2003.

On 11 April 2003 by all accounts Rose was in good spirits. She was excited about her forthcoming Birthday party. She had a good relationship with her mother and friends. There was no evidence to suggest that Rose would be likely to leave the Coffs Harbour/Bellingen area and seek to establish a new life elsewhere. Even if she wished to do so there would be some question as to whether she would be able to do so without assistance because of her autism. In any event even if she were inclined to do so why would she do so after organising and then inviting her friends to her birthday party? I do not think that she has done so.

The evidence is that she has not left Australia, has not conducted any financial account and has not sought the assistance of Centrelink, Medicare or come to the attention of the Police in the ten years since. I am satisfied that if she were to be alive she would have more than likely made contact with her mother and her close friends. I am satisfied that, on the balance of probabilities, Rose is deceased.

Having concluded that Rose is deceased I am required to make findings, if evidence is available, as to the date and place of her death and the cause and manner thereof in accordance with Section 81(1). The determination of the date and place of Rose's death requires an evaluation of the evidence of the sightings after 11 April 2003.

David Ferguson believed that he saw Rose in Bellingen on 12 April 2003. He did not make a statement at the time of her disappearance and in recalling this sighting he was doing so many years after the events. There was some support for his memory because of the association between his hospital procedure that was confirmed to have occurred on 11 April 2003 and his memory of seeing her the next day. He had, however, seen her around Bellingen on previous occasions and may well have confused the dates. I accept that Mr Ferguson was trying to assist the Inquest with his evidence

however given the time between the events and his trying to remember them I could not be satisfied, to the required standard of proof, that his sighting of her on 12 April 2003 was accurate.

Ms Walmsley believed she saw Rose on 16 April 2003. She was at Coffs Harbour on the Pacific Highway. She did not know Rose but thought she had seen her before in Coffs Harbour. She came forward when she saw a photograph of Rose in the newspaper. The woman who she saw on 16 April 2003 had some resemblance to Rose. She also had a guitar on her back and Rose was keen on her music. None of the evidence of Rose's movement on 11 April 2003 suggested that she was carrying her guitar at that time. The evidence was that she had not been home between 11 and 16 April 2003 so she could not have recovered her guitar. Indeed Rose was reported missing to the police on 15 April 2003. On the evidence available I am not satisfied that the person seen by Ms Walmsley on 16 April 2003 was Rose.

Ms Smith gave evidence that she saw Rose on four occasions. The first was outside Toormina High School when Rose was handing out invitations to her birthday party. The subsequent occasions were about two weeks before 5 May 2003, on 5 May 2003 and two or three days after 5 May 2003. Each subsequent sighting was in Coffs Harbour.

The evidence of Ms Smith seeing Rose outside Toormina High School was not provided in her initial statement but given for the first time at the inquest. The only evidence of Rose giving out invitations for her birthday was on 11 April 2003. That was the last day of school for the first term in 2003. Although Ms Smith was not precise as to the time from the description given by her it would seem that it occurred as students were leaving the school. School ordinarily concludes about 3.00pm however as it was the last day of term it may have been earlier.

Toormina High School is between Coffs Harbour and Bellingen. Coffs Harbour is 10 kilometres to the north and Bellingen is 31 kilometres to the southwest. There is evidence of various confirmed sightings of Rose in the Bellingen

CBD at various times during the morning and afternoon on that day. She was then seen hitchhiking at 5.00pm. It would seem unlikely, if not impossible, for Rose to have travelled to Toormina High School to hand out invitations and then to have returned to Bellingen. In any event there would be no need for her to do so if she was wishing to return home as to travel to Bellingen would be to effectively pass her home. I do not believe that Ms Smith saw Rose at Toormina High School on 11 April 2003 as she believes.

Ms Smith gave other evidence of seeing Rose on various occasions after 11 April 2003. Ms Smith's evidence was that she knew Rose quite well from their time at school. On each occasion she said she recognised Rose because of her attire, her hairstyle and the manner of her walk. On 5 May 2003 she said that she spoke to the person she believed to be Rose but the person did not respond. She found this unusual because Rose was fairly gregarious and when spoken to would respond and in the past Ms Smith said she had difficulty ending the conversation.

I am satisfied that Ms Smith must be mistaken and the girl she saw was not Rose. Apart from the uncharacteristic response to being spoken to by the time of these events there was an active police search for Rose that was accompanied by considerable media activity. Were it to have been Rose it would be reasonable to think that she would have responded and contacted her mother or the police. She would certainly have attended her birthday party. I am satisfied that Ms Smith is mistaken when she says that she saw Rose on the three dates that she has mentioned.

Ms Baker's stated that she saw Rose as a bus that she was in passed her on the Pacific Highway at Coffs Harbour. Ms Baker stated that she had a good vision of Rose. She had been with her at school but did not know her very well. She thought that the date she saw Rose was 2 May 2003. She was very sure that it was Rose that she saw but was less sure of the date. I am satisfied that Ms Baker was trying to assist the police investigation by her evidence however I could not be satisfied, on the basis of the evidence available, that she saw Rose on 2 May 2003. If she did see Rose then it may

well have been on a date prior to her going missing. Ms Baker was not available to give evidence at the inquest so these matters could not be examined and without such examination I could not be satisfied that the date was in fact 2 May 2003.

In the circumstances I am satisfied that the last confirmed sighting Rose being alive was when she was seen by Mr Robb a little after 6.00pm on 11 April 2003. I am satisfied that had she been alive after that date she would have been in contact with her family and friends and would certainly have attended her birthday party. She did not do so. It is therefore more probably than not that she died at or about the time of her disappearance and that her death occurred in the vicinity of where she was last seen. I therefore propose to record that Rose died on or about 11 April 2003 and that her death occurred in the Bellingen / Coffs Harbour area of New South Wales.

This brings me to the question of the cause and manner of Rose's death. Her body not having been located there is no evidence on which I could make a finding as to the cause of her death. That is a matter that will need to be left open until additional evidence becomes available.

The situation as to the manner of Rose's death is similar. The manner of a person's death can generally be classified as being one of four alternatives. These are natural cause, misadventure, intentional self-harm or the result of action of a third party. In Rose's case there is no evidence to suggest that her death was due to natural cause or misadventure.

Rose was in apparent good health on the day she went missing and there was no evidence to suggest she suffered from any underlying medical condition that might have resulted in her sudden death.

Were Rose to have suffered sudden death, due to either underlying medical condition or an accident or injury it is, in my view more likely that her body would have been found well before now. I am satisfied that this is not the case.

As to intentional self-harm I am satisfied that this is also unlikely. All the evidence available to me is that Rose was in good spirits on 11 April 2003, was looking forward to her upcoming birthday party, had not displayed any suicidal ideation in the period prior to her disappearance and when last seen appeared to be, if not on her way home, at least travelling in the direction of her home without any apparent distress.

I am therefore satisfied that it is likely that Rose's death occurred at the hands of some unknown third party or parties. This leads to a consideration of the information given to police by 'Prisoner 'A'.

Were I to be satisfied that the evidence available with respect of the alleged involvement of 'Prisoner A' in the death of Rose was such as to meet the requirements of Section 78(1)(b) then I would suspend the inquest and refer that evidence to the Director of Public Prosecutions for consideration. The evidence available however does not meet that standard.

Having reviewed the information given by 'Prisoner A' I agree with DSC Watt that it cannot be ignored. In spite of the extensive investigation undertaken by DSC Watt there is no objective evidence available to support the claims made by 'Prisoner A.' There is also a serious question as to whether or not he had the opportunity to be involved in Rose's disappearance due to the restrictions that were placed on his movements at about the time Rose went missing. I am therefore satisfied that the information provided by 'Prisoner A' it is not of such a standard as to be capable of being relied on by me to determine either the cause or manner of Rose's death.

Whilst it is likely that Rose's death was brought about at the hands of a person, or persons, unknown there is also insufficient evidence available for me to make a positive finding that this was the case and in such circumstances the manner of Rose's death will necessarily also be the subject of an open finding.

Future investigations

At the end of an inquest dealing with a missing person where a coroner is required to make open findings as to cause and or manner of death although the inquest is concluded the investigation is not. The investigation remains open by the police and the State Coroner may, where new evidence becomes available, order a fresh inquest. This will be the situation in this case, one can only hope that in the future such evidence will be come available and Rose's family will be able to at least be comforted by the knowledge of the circumstances of her death.

Section 82 Recommendations

I do not consider that any matters have arisen in this inquest that would necessitate me making any recommendations in accordance with this section other than that it be referred to the unsolved homicide unit of the NSW Police for further investigation in accordance with the protocols of that unit.

Magistrate P A MacMahon

Deputy State Coroner

27 June 2013